IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

FAO.No. 226 of 2007()

AGAINST THE ORDER DATED 25/07/2007 IN IA 2180 2007 IN OS.8/2004 of ADDL.DISTRICT COURT, THRISSUR
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APPELLANT/PETITIONER/PLAINTIFF

NEDUMPILLY THARANANELLUR TRUST ESTATE, REPRESENTED BY MANAGING TRUSTEE, PRADEEP NAMBOODIRIPAD, NEDUMPILLY, THARANANELLUR ILLAM, KARALAM VILLAGE, KIZHTHANI DESOM.

BY ADV. SRI.C.K.VIDYASAGAR
SRI.T.I.ABDUL SALAM

RESPONDENTS: RESPONDENTS/DEFENDANTS
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1. PAYAMMAL SREE SATHRUGNASWAMY KSHETHRA SEVA SAMITHI, REPRESENTED BY SECRETARY SULESH SUBRAMANIAN, PAYAMMAL DESOM, POOMANGALAM VILLAGE.

2. A.V.DILLAN, PRESIDENT, PAYAMMAL SREE SATHRUGNASWAMY KSHETHRA SEVA SAMITHY, ANDIKODU VEEDU, -DO-

3. P.N.SURESH, TREASURER, -DO-

4. AKKITHAN INCHIPULIKATTIL, SECRETARY, -DO-

5. SANKARANARAYANAN, AANDIKKODU, PRESIDENT, -DO-

6. RAJAN CHEMOTTIPARAMBIL, TREASURER, -DO-

BY ADV. SRI.U.O.JOSE
ADV.SHRI T.M.CHANDRAN - FOR ADVOCATE RECEIVERS

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 22/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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F.A.O. NO. 226 OF 2007

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Dated this the 22nd day of August, 2007

J U D G M E N T

This FAO is filed against the order passed by the District Court, Thrissur in I.A. No.2180 of 2007 in O.S. No.8 of 2004. The suit was filed for framing a Scheme for managing the affairs of Payammal Sathrugnaswamy Temple (hereinafter referred to as "the Temple"). In the suit plaintiff filed I.A. No.2300 of 2006 for appointing a regular Receiver, which is still pending. In the meanwhile they filed another application, I.A. No.2180 of 2007 for appointment of a Receiver at least for managing the day to day affairs of the Temple during Karkiddkam, 1182 M.E., the Ramayanamasam, subject to some terms and conditions. Court below found that the Receiver appointed earlier was not functioning properly and he has to be removed. Thereafter court below gave permission to the Elected Committee constituted on 24.6.2007 to take charge of the Temple for the management of the day to day affairs including that for the Ramayanamasam. Challenging that order, this FAO is filed.

2. This Court by order dated 2.8.2007 appointed Adocate Shri P.R. Neelakandan Namboodiri, Thrissur Bar and Advocate Shri C.V. Saburaj, Irinjalakuda Bar as joint Receivers to oversee the day to day affairs of the Temple during the Ramayanamasam of 1182 M.E. Now that period is over. It is submitted by the respondents that the order passed in I.A. No.2180 of 2007 entrusting charge of the affairs of the Temple will continue till the disposal of the suit. Since I.A. No.2300 of 2006 filed under Order XL Rule 1 CPC to appointment a regular Receiver is pending, it is only just and proper that the court below considers that application after hearing both sides and takes a decision in accordance with law, especially in view of the fact that the court below itself had removed the Receiver appointed earlier, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment.

3. Since Ramayanamasam is over, I do not think it just and proper to continue the interim arrangements made by me as per I.A. No.2771 of 2007. The Receivers will have to cover a lot of distance to reach the Temple. So to prevent further expenditure by way of remuneration to the Receivers, it is only

just and proper to allow the Elected Committee to take charge of the Temple forthwith until the court below passes orders in I.A. No.2300 of 2006. I make it clear that this is only an interim arrangement subject to the orders to be passed by the court below in the application to appoint a Receiver. Hence the joint Receivers appointed are directed to hand over charge of the Temple to the Elected Committee with effect from 23.8.2007. The Elected Committee shall properly account the collections and issue sufficient receipts. They can incur an expenditure of Rs.15,000/- for meeting the day to day affairs of the Temple. It is made clear that if any urgent need arises, the Committee can spend upto Rs.25,000/- a day and they shall get ratification of the same from the court below. The Elected committee shall not incur any expenditure of substantial nature without the permission of the court below. It goes without saying that parties to the suit shall co-operate with the day to day affairs of the Temple. Receivers were given Rs.7,500/- as their remuneration. Since they had to cover a distance of about 70 kms. per day, the Elected Committee is directed to give another Rs.12,500/- each to the Receivers as their remuneration. But the said amount will not

include any legal expenses, which is to be debited to the Temple's account. The learned District Judge shall bestow personal attention to dispose of the suit itself within six months.

4. Receivers have filed interim reports before this Court containing certain suggestions. Office is directed to forward all the reports filed by the Receivers to the court below for consideration in accordance with law with due notice to the parties to the suit. The Bank account opened by the Receivers shall be kept as such till the court below passes an orders as to what should be done with the money in deposit. The Accounts submitted by the Receivers as well the Elected Committee shall also be transmitted to the court below for appropriate orders. The court below shall consider and pass appropriate orders regarding the accounts, reports filed by the Receivers and also regarding the money deposited by the interim Receivers in the Bank. The Elected Committee shall take over charge of the Temple with effect from 23.8.2007 and if they have got any objection or complaint regarding he management of the Temple by the Receivers for the Ramayanamasam they shall seek appropriate reliefs from the

court below.

5. In the result, the FAO is disposed of in the following manner:

(1) The court below shall consider I.A. No.2300 of 2006 filed by the plaintiffs for appointment of a Receiver as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment.

(2) The court below shall consider and pass appropriate orders regarding the accounts submitted by the joint Receivers, their interim reports and the manner in which the amount deposited by the Receivers in the Bank is to be dealt with.

(3) The court below shall make every endeavour to try and dispose of the suit itself as expeditiously as possible, at any rate, within six months from today.

Pending I.As. in this FAO will stand closed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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F.A.O. NO. 226 OF 2007

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J U D G M E N T

22ND AUGUST, 2007